

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Case No. 5:22-cv-00068-BO

YOLANDA IRVING, et al.,

Plaintiffs,

v.

THE CITY OF RALEIGH, et al.,

Defendants.

**OMAR I. ABDULLAH'S AMENDED
APPENDIX TO LOCAL RULE
56.1(A)(1) AMENDED STATEMENT
OF MATERIAL FACTS IN
SUPPORT OF AMENDED MOTION
FOR SUMMARY JUDGMENT**

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Respectfully submitted, this the 1st day of May, 2023.

/s/ Jason R. Benton

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date, the foregoing **Omar I. Abdullah's Amended Appendix to Local Rule 56.1(A)(1) Amended Statement of Material Facts in Support of Amended Motion for Summary Judgment** was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification and serve same upon counsel of record via the Court's electronic case filing system.

This the 1st day of May, 2023.

/s/ Jason R. Benton

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Case No. 5:22-CV-00068-BO

YOLANDA IRVING, et al.,

Plaintiffs,

v.

THE CITY OF RALEIGH, et al.,

Defendants.

DECLARATION OF OMAR I.
ABDULLAH

Pursuant to 28 U.S.C. § 1746, I, Omar I. Abdullah, hereby state and declare under penalty of perjury as follows:

1. I am over the age of eighteen and am under no disability which would render me incompetent to make this declaration. I have personal knowledge of all the matters stated in this declaration, and all statements made are true and correct.
2. Attached as Exhibit A to my declaration are true and accurate copies of lab test results from nine controlled buys in 2018 involving the confidential informant code named Aspirin.

Executed this 31 day of March, 2023.


Omar I. Abdullah

**(FILED UNDER
SEAL)**

EXHIBIT A

(to Declaration of Omar I. Abdullah)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO.: 5:22-cv-00068-BO

YOLANDA IRVING, individually and as the)
natural parent and guardian of J.I. JUWAN)
HARRINGTON, CYDNEEA HARRINGTON, KENYA)
WALTON, individually and as the natural)
parent and guardian of R.W. ZIYEL WHITLEY,)
DYAMOND WHITLEY, KAMISHA WHITLEY, NANETTA)
GRANT as the natural parent and guardian)
of Z.G. and EMANCIPATE NC, INC.)

Plaintiffs,)

vs.)

THE CITY OF RALEIGH, Officer OMAR I.)
ABDULLAH, Sergeant WILLIAM ROLFE, Officer)
RISHAR PIERRE MONROE, Officer JULIEN DAVID)
RATTELADE, and Officer MEGHAN CAROLINE GAY,)
Officer DAVID MEAD, Officer JESUS ORTIZ,)
Officer KYLE PERRIN, Officer MICHAEL)
MOLLERE, Officer KYLE THOMPSON, Officer)
VINCENT DEBONIS, Officer DANIEL TWIDDY,)
Officer THOMAS WEBB, Officer DAVID)
McDONALD, Officer DAVID GARNER, Chief of)
Police ESTELLA PATTERSON and City Manager)
MARCHELL ADAMS-DAVID, in their official)
capacities,)

Defendants.)

D E P O S I T I O N

OF

OFFICER DAVID MEAD

At Raleigh, North Carolina
Tuesday, November 1, 2022

REPORTER: DEBORAH A. HYDE

REED & ASSOCIATES
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Officer Mead

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Officer Mead

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(All paper exhibits are provided with transcript. It was agreed by all parties that video exhibits will not be attached.)

* * * * *

REED & ASSOCIATES
MATTHEWS, NORTH CAROLINA 980.339.3575

Officer Mead

5

1 This is the deposition of OFFICER DAVID MEAD,
2 taken in accordance with the Federal Rules of Civil
3 Procedure in connection with the above case.

4 Pursuant to Notice, this deposition is being
5 taken in the offices of Ellis & Winters LLP, 4131 Parklake
6 Avenue, Suite 400, Raleigh, North Carolina, beginning at
7 10:07 a.m. on Tuesday, November 1, 2022, before Deborah A.
8 Hyde, Certified Verbatim Reporter and Notary Public.

9 * * *

10 Whereupon,

11 **OFFICER DAVID MEAD**

12 was called as a witness and, having first been duly sworn,
13 was examined and testified as follows:

14 EXAMINATION

15 BY MS. SIMPSON:

16 Q. Good morning.

17 A. Good morning.

18 Q. Hi. So my name is Elizabeth Simpson. I'm an
19 attorney and I work at Emancipate NC, and we, along with
20 some other attorneys, represent all the plaintiffs in this
21 case.

22 A. All right.

23 Q. So you're testifying under oath today and under
24 penalty of perjury, just as if you were in court. Do you
25 understand that?

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Officer Mead

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1 Q. Did your answer mean that you never monitored
2 one that was a buy not in open air?

3 A. So if we are monitoring them, it was going to be
4 some sort of open-air arrest or detention at a vehicle.
5 More often than not, if you're using -- if Drugs and Vice
6 or an officer is using an informant with the equipment to
7 go to a residence to establish probable cause, we're
8 probably not going to be a part of that because that's not
9 something that we would do immediately very often. But if
10 it were to happen, it would be because we're waiting
11 for -- waiting to make an arrest almost immediately.

12 Q. If you're executing a drug search warrant and
13 you are deploying out to the location, does a vice ride
14 along with you?

15 A. The case agent or, again, somebody with very
16 intimate knowledge of the location will oftentimes drive
17 us if we're going in one vehicle and then, yes, the other
18 members of that team or that squad would accompany us
19 because they typically help with perimeter security or
20 detentions of people that may be outside the residence,
21 and then later on they have their different search duties
22 inside the residence.

23 Q. What's the division of labor between the SEU
24 team and the vice officers?

25 A. The division of labor? Oh, like how do we

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Officer Mead

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1 divide our responsibilities? Is that what you're saying?

2 Q. Yes.

3 A. Well, I mean they have their investigation that
4 they're working and we have the tactic side of everything,
5 which is basically we're just rendering an area or vehicle
6 or a person or persons in a residence safe, so that way
7 the detectives or the officers, whoever, can conduct
8 their -- complete their investigation or continue their
9 investigation safely.

10 Q. So does your team search for drugs, for
11 instance?

12 A. No. We'll search for people, mainly, on the
13 front end. If we happen to come across something in plain
14 sight or somewhere where something was secreted, while
15 we're looking for people, we may make note of that and
16 then inform the investigators where we saw and what we saw
17 and who we saw with it or where we saw this person.

18 Q. So when your team goes in, your goal is to find
19 all the people in the house and get them in a position
20 that is safe?

21 A. Yes.

22 Q. What about dogs?

23 A. If there are dogs in the house, we'll try and
24 find a -- depending on if they're aggressive or not
25 aggressive or they're scared, we'll try and find just a

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 WALTON, individually an as the natural)
 parent and guardian of R.W. ZIYEL WHITLEY,)
 DYAMOND WHITLEY, KAMISHA WHITLEY, NANETTA)
 GRANT as the natural parent and guardian)
 of Z.G. and EMANCIPATE NC, INC.)

Plaintiffs,)

vs.)

THE CITY OF RALEIGH, Officer OMAR I.)
 ABDULLAH, Sergeant WILLIAM ROLFE, Officer)
 RISHAR PIERRE MONROE, Officer JULIEN DAVID)
 RATTELADE, and Officer MEGHAN CAROLINE GAY,)
 Officer DAVID MEAD, Officer JESUS ORTIZ,)
 Officer KYLE PERRIN, Officer MICHAEL)
 MOLLERE, Officer KYLE THOMPSON, Officer)
 VINCENT DEBONIS, Officer DANIEL TWIDDY,)
 Officer THOMAS WEBB, Officer DAVID)
 McDONALD, Officer DAVID GARNER, Chief of)
 Police ESTELLA PATTERSON and City Manager)
 MARCHELL ADAMS-DAVID, in their official)
 capacities,)

Defendants.)

D E P O S I T I O N
 OF
 OFFICER OMAR ABDULLAH

At Raleigh, North Carolina
 Thursday, December 15, 2022
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(Exhibits retained by counsel.)

Reporter's Note: This transcript contains quoted material. Such material is reproduced as read or quoted by the speaker.

1 This is the deposition of OFFICER OMAR ABDULLAH,
2 taken in accordance with the Federal Rules of Civil
3 Procedure in connection with the above case.

4 Pursuant to Notice, this deposition is being
5 taken in the offices of Parker Poe Adams & Bernstein, LLP,
6 301 Fayetteville Street, Suite 1400, Raleigh, North
7 Carolina, beginning at 10:17 a.m. on Thursday,
8 December 15, 2022, before Deborah A. Hyde, Certified
9 Verbatim Reporter and Notary Public.

10 * * *

11 Whereupon,

12 OFFICER OMAR ABDULLAH
13 was called as a witness and, having first been duly
14 affirmed, was examined and testified as follows:

15 EXAMINATION

16 BY MR. SCHEWEL:

17 Q. My name is Abraham Rubert-Schewel. I'm with the
18 Law Firm of Tin Fulton Walker & Owen. We represent the
19 plaintiffs in this lawsuit against the City of Raleigh and
20 individually named officers, such as yourself.

21 You're testifying under oath and under the
22 penalty of perjury today, just as if you were in a court
23 of law. Do you understand that?

24 A. Yes, I do.

25 Q. Have you ever been deposed before?

1 exactly what you mean.

2 Q. At all on that day.

3 A. The individuals that helped me on the buy is Gay
4 and Gwinn on that date.

5 Q. And just to be clear, this is on May 20th, 2020?

6 A. That's correct.

7 Q. Okay. Did Officers Gay and Gwinn ride with you
8 in the car on that day?

9 A. No.

10 Q. Did they drive together?

11 A. No, they didn't.

12 Q. So they each rode in their own vehicles?

13 A. That's correct.

14 Q. Did you conduct surveillance of Apartment 1628-B
15 on May 20th, 2020?

16 A. Did I conduct surveillance?

17 MR. BENTON: We need to take a break.

18 MR. SCHEWEL: Okay.

19 (Recess from 11:49 a.m. to 11:55 a.m.)

20 BY MR. SCHEWEL:

21 Q. Did you conduct surveillance of 1628-B Burgundy
22 Street on May 20th, 2020?

23 A. Yes.

24 Q. Describe that surveillance.

25 A. It was physical surveillance, also surveillance

1 electronically.

2 Q. What occurred?

3 A. In terms of what occurred, meaning?

4 Q. What did you observe?

5 A. Pretty much the CI pointed out the residence
6 that was going to be where the buy is going to take place,
7 like it will be the front of the residence.

8 Q. What else do you recall?

9 A. Him pointing out that that's the residence where
10 he goes and that he always -- the guy always has him going
11 to the back of the residence.

12 Q. Do you recall anything else in your
13 surveillance?

14 A. The only thing I recall in the surveillance,
15 that it was really not many people walking around outside.

16 Q. Were you parked in your car during the
17 surveillance?

18 A. We drove through.

19 Q. And you were in your car alone with Dennis
20 Williams?

21 A. That's correct.

22 Q. And Officer Gay and Officer Gwinn were in their
23 own cars?

24 A. Yes.

25 Q. And did they park their cars?

1 A. I don't know what they did.

2 Q. Did you observe Officer Gay or Officer Gwinn
3 conducting surveillance?

4 A. I did not observe them.

5 Q. When you drove by the apartment with Dennis
6 Williams, did he physically point to the location where he
7 allegedly purchased narcotics?

8 A. That's correct.

9 Q. And what apartment number was that?

10 A. 1628-B.

11 Q. How did you know that?

12 A. That's from what he pointed and told me.

13 Q. Well, when he pointed, could you observe a
14 number on that apartment?

15 A. Yes, you can, in the front.

16 Q. On the front door?

17 A. I'm not sure if it's to the right of the door or
18 what, but there's -- the unit is marked.

19 Q. Okay. So your testimony is that when you drove
20 by the apartment, Dennis Williams pointed at an apartment
21 and you could see that it was marked as 1628?

22 A. 1628, I believe, is -- I'm not sure if it's --
23 is it B? But you can -- it's marked which units because
24 in the front, each individual unit is marked.

25 Q. And they're marked with the address number as

1 address -- he made clear to me that that's where he goes
2 in to do -- to meet with the guy.

3 Q. Did he tell you this when he was in the car with
4 you?

5 A. That's correct.

6 Q. Did you ever attempt to verify who was living at
7 1628-B?

8 A. I did not verify who was in that unit. You
9 would have to be careful because you don't want to tip off
10 whoever is in that unit because it's not going to be
11 listed in their name if you try to look it up.

12 Q. Why do you say that?

13 A. It's owned by a property group, so they don't
14 have an individual person, in my experience. You have to
15 call somehow and get that type of information with whoever
16 lives there.

17 Q. Okay. So you didn't attempt to verify who was
18 living at 1628-B?

19 A. No.

20 Q. Did you verify in any way that Marcus VanIrvin
21 was living at 1628-B?

22 A. Did I verify? No.

23 Q. Did you observe Dennis Williams enter 1628-B?

24 MR. BENTON: Abe, on what day?

25 MR. SCHEWEL: May 20th, 2020.

1 THE WITNESS: I observed -- what I observed was
2 him enter after watching the video after the buy. I
3 observed him being let into the apartment that I believe
4 to be 1628-B.

5 BY MR. SCHEWEL:

6 Q. Okay. So through watching surveillance video
7 after the alleged buy, you knew that he had been let into
8 an apartment?

9 A. I reasonably believed that he was let into the
10 apartment that was 1628-B by the subject in question.

11 Q. And in that surveillance video, could you see
12 him being let into an apartment?

13 A. You see the door open up, the CI go in, shut the
14 door. You see the back of the individual and at the time
15 he turns around, the camera got obscured.

16 Q. Did Officer Gay or Officer Gwinn tell you that
17 they observed Dennis Williams enter 1628-B?

18 A. What I remember was Gwinn telling me back at the
19 station that he saw him go inside.

20 Q. Did he say the apartment number?

21 A. I don't remember him saying the apartment
22 number. I remember him saying that he went inside the
23 apartment.

24 Q. So based on what Officer Gwinn told you, you
25 believed that Officer Gwinn was physically surveilling

1 based on my Fifth Amendment rights.

2 Q. Prior to the controlled buy involving Curtis
3 Williams [sic], did you meet with other vice and SEU
4 officers to prepare for the takedown?

5 A. Curtis Williams. Who's --

6 Q. Sorry, Curtis Logan.

7 A. Okay. And what was your question, sir?

8 Q. Did you meet with the vice team and the other
9 SEU officers to prepare for the takedown?

10 A. Yes.

11 Q. And did you discuss the operation with the vice
12 team and the SEU officers?

13 A. Yes.

14 Q. And did you discuss that you were using the
15 confidential informant, Dennis Williams?

16 A. I don't remember the exact details of the -- of
17 the briefing, but pretty much we're going over the
18 operation. What CI was being used, I don't remember if
19 that was stated.

20 Q. Do you recall debriefing with the vice team
21 after this arrest at Greens Dairy Road?

22 A. Vaguely.

23 Q. Are you aware that you alleged that Mr. Logan
24 sold over 20 grams of heroin to Dennis Williams?

25 A. Yes, I'm aware of that.

1 Q. And are you aware that you alleged that he sold
2 the 20 grams of heroin for \$400?

3 A. Yes, I am.

4 Q. Do you recall Officer Monroe observing the
5 heroin and telling you that it did not appear to be
6 heroin?

7 A. I'm aware that he field tested the heroin.

8 Q. So the answer to that question of Monroe
9 observing the heroin and telling you that it did not look
10 like heroin --

11 A. Your question is what?

12 Q. Do you recall Officer Monroe observing the
13 heroin and telling you that it did not appear to be
14 heroin?

15 A. That's not observing. What he did was field
16 test.

17 Q. Right. I understand that, but my question is,
18 did Officer Monroe also tell you that the heroin did not
19 look like heroin?

20 A. I don't remember him saying that. What I
21 remember is him field testing it.

22 Q. Did you observe him field test it?

23 A. I observed him field test the substance.

24 Q. Okay. And what was the result of the field
25 test?

1 A. I don't know what those results were. I never
2 field tested heroin.

3 Q. Well, did he tell you that it field tested
4 negative?

5 A. He did tell me that, yes.

6 Q. Did you believe him?

7 A. I went based on what the policy stated.

8 Q. I'm just asking if you believed him that it had
9 field tested negative.

10 A. I didn't -- based on my training that I received
11 from outside the department, as well as the department,
12 especially outside, field tests were unreliable. It's
13 just an indicator of a color change. It's not conclusive
14 confirmation of a positive or a negative.

15 Q. I'm not asking you that. I'm just asking you
16 whether or not you believed that Officer Monroe was being
17 honest about the results of the field test.

18 A. I can't say his honesty, but I'm saying it's
19 what I was trained.

20 Q. I know, and I'm not asking -- sorry. I'm just
21 asking you whether or not you thought he was being
22 truthful about it.

23 A. Like I said, I was going based on my training,
24 and the training that I received, that's what I based my
25 conclusion off of. I didn't base it off of what I

1 A. I wouldn't say about the cost. The training I
2 received covered, like I said, a lot of different topics,
3 a lot of different drugs, but cost wise, I don't know if
4 cost was mentioned. I just know that we were given a
5 price guide of the different costs of narcotics by our
6 supervisor.

7 Q. Were you trained in submitting narcotics to the
8 CCBI lab for testing and how to do that?

9 A. I observed Nance showing me some of the lab
10 reports that they do when they submit the work.

11 Q. Did he show you how to submit lab reports to the
12 CCI [sic] or did he show you how to submit drugs to be
13 tested by the CCBI lab?

14 A. I don't remember how. I just know that when we
15 got there, myself and Privette, you're pretty much -- you
16 know, you start off handling the evidence for them and
17 you're just, you know, pretty much submitting the
18 paperwork and they're telling you what they would submit
19 in this case, and you're watching them. You're pretty
20 much learning by visual.

21 Q. In 2018 and 2019, were you aware of how to
22 submit drugs to the CCBI lab for testing?

23 A. Eventually, you become more familiar with doing
24 the paperwork and how to do it.

25 Q. And what was that process?

1 A. Typically, you would get prompted by a DA's
2 office to submit the paperwork.

3 Q. Is this Markita?

4 A. Markita worked in the evidence department.

5 Q. Of RPD?

6 A. Yes.

7 Q. And so how would that process work?

8 A. I would get a e-mail stating to submit evidence
9 in reference to this case number.

10 Q. And who would the e-mail be from?

11 A. District attorney's office to her, then to me.

12 Q. Okay. So they would send an e-mail to Markita?

13 A. Uh-huh.

14 Q. And then Markita would send an e-mail to you?

15 A. That's correct.

16 Q. Would you ever submit drugs to the CCBI lab
17 without receiving an e-mail from the DA's office?

18 A. Each detective is different. They -- were there
19 times when it has been done? Yes, there has been times.
20 You may have another detective who would direct you to do
21 it.

22 Q. I'm just asking about you, personally.

23 A. Specifically, my practice was to wait for -- to
24 be prompted by the DA's office.

25 Q. In the Curtis Logan case, did you wait until you

1 received an e-mail from the DA's office until you
2 submitted the CCBI labs?

3 A. No. I remember Monroe told me to send the lab
4 results -- to send the request off for the drugs and
5 testing it, and I -- that's what I did.

6 Q. Was Monroe your supervisor?

7 A. No, Sergeant Rolfe is.

8 Q. But you still followed Officer Monroe's
9 instructions?

10 A. I followed what he told me to do on that.

11 Q. Was that because he was more experienced than
12 you?

13 A. No. It was just -- he was saying to send it
14 off, and that's what I did.

15 Q. So in that instance, you did not wait for an
16 e-mail notification from the district attorney's office?

17 A. That's correct.

18 Q. You did it on your own initiative?

19 A. I did it based on what he told me to do.

20 Q. Were you trained in how to obtain the results of
21 drugs sent to the CCBI lab?

22 A. I don't understand your question.

23 Q. So after the drugs are sent to the CCBI lab to
24 be analyzed, there are results that are provided back to
25 the Raleigh Police Department that says whether or not

1 Q. And you don't remember the name of the suspect
2 or the defendant?

3 A. No, I don't.

4 Q. Okay. Any other instances?

5 A. Not off the top of my head, no.

6 Q. Did you ever conduct a qualifying buy with
7 Dennis Williams?

8 A. Yes, we did.

9 Q. When did this occur?

10 A. This occurred when we first had signed him up.
11 Myself and David Nance was there. We did a qualifying
12 buy. I don't remember the name of the defendant. That
13 was for crack cocaine, I believe.

14 Q. And did you charge the person who made the sale
15 to Williams?

16 A. After other buys that we did; the qualifying
17 buy, we did not.

18 Q. So you charged him down the road?

19 A. Down the road, he got charged.

20 Q. And you don't recall the name of this
21 individual?

22 A. No, I don't, not off the top of my head.

23 Q. Do you think it's Antoine Haywood?

24 A. I would have to see the report. I can't say for
25 sure what the name of the individual --

1 Q. But the qualifying buy was the first buy you
2 ever made with Dennis Williams?

3 A. The qualifying buy would be the first one to
4 establish his reliability.

5 Q. Which was the first one you ever made with that
6 CI?

7 A. That's correct.

8 Q. Was it your practice to search Mr. Williams
9 prior to controlled buys?

10 A. Yes.

11 Q. How would you search him?

12 A. Based on the way I was trained, it was a pat
13 down, as I recall, and I will take a step further to also
14 have him to flip his pockets inside out.

15 Q. Did you ever find any contraband on his person
16 when you were searching him?

17 A. No.

18 Q. Was it your practice to search Mr. Williams
19 after a controlled buy?

20 A. Based on the way I was trained was to search him
21 before and after.

22 Q. So was it your practice to search Mr. Williams
23 after a controlled buy?

24 A. I would search him after.

25 Q. And was that the same search?

1 Q. Okay. Did you observe SEU search Mr. Weaver?

2 A. No, I didn't.

3 Q. Is it SEU's standard practice to search someone
4 when they detain them?

5 MR. BENTON: Objection.

6 MS. LIGUORI: Objection.

7 MR. BENTON: You can answer if you know.

8 THE WITNESS: I can't speak to the practice of
9 SEU officers. I don't know their practices. I'm not an
10 SEU officer.

11 BY MR. SCHEWEL:

12 Q. Well, you've worked with SEU officers on many
13 occasions, right?

14 A. I've worked with them, but I don't know their
15 practices in terms of what they do.

16 Q. Is it your standard practice when you detain
17 someone to search them?

18 A. You've got to be careful when you say "detain"
19 and "search" because if you're -- if you have someone to
20 arrest, you can search them, but there's a limited scope
21 about that type of search, so I don't want to say -- you
22 know, you detain someone, you could pat them down for a
23 belief of weapons, but you're not going to stick your
24 hands in their pockets, so --

25 Q. Okay. Did you observe Mr. Weaver in the custody

1 Q. After the phone cut out, what do you remember
2 next?

3 A. Silence for a little bit and then the CI calling
4 me, saying that the buy had completed and to hurry up
5 because they're trying to leave.

6 Q. So after the video cut out, you don't recall
7 seeing anything else on the video?

8 A. I don't recall anything else.

9 Q. And do you recall hearing anything else on the
10 video?

11 A. You couldn't hear anything.

12 Q. What do you mean, you can't hear anything?

13 A. It cut off. That's what I'm saying, so you
14 can't -- the live feed was done, so you can't hear
15 anything.

16 Q. So after it cut off, it never came back on?

17 A. No.

18 Q. Okay. And then Aspirin calls you and he tells
19 you, "The buy is done, hurry up"?

20 A. Yeah.

21 Q. What happens next?

22 A. Told everybody to move in over the radio.

23 Q. And what did you do?

24 A. Proceeded to drive from our location to 1628-B.

25 Q. What did you do next?

1 A. When I got there, I'm the last person to get out
2 because I have to secure the van while the SEU officers
3 get out, so me and the medic are the last two individuals
4 coming out.

5 Q. What did you do after you secured the van?

6 A. Went to the location that everybody was at, at
7 the unit. They are holding one spot and it looked like
8 they're going towards another unit next to it, so I held
9 where I was at.

10 Q. Do you know if the SEU officers surveilled the
11 apartment prior to the warrant execution?

12 A. I don't remember. Typically, we would drive
13 through a location that we're going to execute a search
14 warrant at, and they liked to see exactly where the door
15 is at, which -- is there a storm door? Is there a door
16 handle? What type? Which way would it open out? I
17 believe that we did. I don't remember in that case, but,
18 typically, when we're getting ready to do a search
19 warrant, we would do that.

20 Q. At the meeting before the execution of the
21 warrant, do you remember discussing with the SEU officers
22 whether or not they had surveilled the apartment?

23 A. I don't remember that conversation.

24 Q. Do you believe that you executed the search
25 warrant on the correct location?

1 A. On the advice of counsel, I choose not to answer
2 based on my Fifth Amendment rights.

3 Q. Did you discover any contraband in the
4 apartment?

5 A. On the advice of counsel, I choose not to answer
6 based on my Fifth Amendment rights.

7 Q. Did you discover any buy money in the apartment?

8 A. On the advice of counsel, I choose not to answer
9 based on my Fifth Amendment rights.

10 Q. Did you search the apartment?

11 A. What apartment are you talking about?

12 Q. 1628-B.

13 A. Did I personally search it?

14 Q. (Nods affirmatively.)

15 A. You had Gay and Monroe searching it.

16 Q. Did you ever go upstairs?

17 A. I believe I walked through, but pretty much
18 every -- Monroe pointed out that they had previously
19 searched.

20 Q. So why did you go upstairs?

21 A. To see what was going on.

22 Q. Did you search 1628-A?

23 A. 1628-A?

24 Q. (Nods affirmatively.)

25 A. No.

Kenya Walton
Irving, Yolanda. The City Of Raleigh

November 15, 2022

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF NORTH CAROLINA
3 WESTERN DIVISION
4 Case No. 5:22-CV-00068-BO
5

6 YOLANDA IRVING, et al.,)

7 Plaintiffs,)

8 V.)

9 THE CITY OF RALEIGH, et)

10 al.,)

11 Defendants.)

12 _____)

13 VIDEOTAPED DEPOSITION
14 OF

15 KENYA WALTON

16 NOVEMBER 15, 2022
17 10:24 A.M. - 3:15 P.M.

18 TIN FULTON WALKER & OWEN
19 407 North Person Street
20 Raleigh, North Carolina

21
22
23
24 Reported by: Michelle Maar, RDR, RMR, FCRR
25

APPEARANCES:

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Also Present:

Carl Rehl, Videographer

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1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: We are now on the record at
3 10:24 a.m., on November 15, 2022.

4 This is Media Number 1 in the deposition of Kenya
5 Walton, taken in the matter of Yolanda Irving, et al.,
6 versus The City of Raleigh, et al., Case Number
7 5:22-CV-00068-BO.

8 This deposition is being held at Tin Fulton Walker
9 & Owen, in Raleigh, North Carolina.

10 My name is Carl Rehl. The Court Reporter is
11 Michelle Maar.

12 Would counsel now please introduce yourselves,
13 after which the court reporter will swear in the witness.

14 MS. GLADDEN: Emily Gladden on behalf of Ms.
15 Walton and all Plaintiffs.

16 MS. PETTY: Amy Petty, on behalf of The City of
17 Raleigh and official capacity defendants.

18 MS. POOLE: Alayna Poole, on behalf of Defendants
19 Gay, Monroe, and Rattelade in their individual capacities.

20 MR. BENTON: Jason Benton, on behalf of Omar
21 Abdullah.

22 MS. PACKER: Leslie Packer, on behalf of the SEU
23 Officers.

24 MR. BLANCHARD: Norwood Blanchard, on behalf of
25 Sergeant William Rolfe.

Kenya Walton
Irving, Yolandav. The City Of Raleigh

November 15, 2022

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1 KENYA WALTON,
2 called as a witness and having been first duly sworn,
3 was examined and testified as follows:
4

5 EXAMINATION

6 BY MS. PACKER:

7 Q. Ms. Walton, my name is Leslie Packer.

8 And, as you just heard, I represent the SEU
9 Officers. And I'm going to be leading off the questioning
10 today.

11 A. Okay.

12 Q. If at any time you don't understand my question
13 or would like for me to repeat it or rephrase it, will you
14 let me know that?

15 A. Yes, ma'am.

16 Q. And we can take breaks any time.

17 A. Okay.

18 Q. The only request would be if there's a pending
19 question, that you answer the question. And then we can
20 take a break.

21 A. Yes, ma'am.

22 Q. Okay. What did you do to prepare for your
23 deposition today?

24 A. I just went over everything and made sure my mind
25 was clear.

1 Q. Without telling -- I assume you met with your
2 attorney?

3 A. Yes.

4 Q. Without telling me anything that you discussed
5 with your attorney, did you review any documents?

6 A. No.

7 Q. Did you review any videos?

8 A. Yes.

9 Q. Were the videos that you reviewed the police body
10 cam videos?

11 A. Yes.

12 Q. Do you remember which ones you reviewed?

13 A. Me coming inside the house.

14 Q. Any others?

15 A. No, ma'am.

16 Q. Have you ever given a deposition before?

17 A. No, ma'am.

18 Q. Have you ever had to testify for any reason?

19 A. No, ma'am.

20 Q. What is your date of birth?

21 A. 07-07-1979.

22 Q. And your current name is Kenya Walton?

23 A. Yes.

24 Q. What are the other names that you've had either
25 due to marriage or --

1 A. No. He was there.

2 Q. Living there?

3 A. Yes.

4 Q. Okay. Are you currently working?

5 A. Yes.

6 Q. How do you -- what do you do for work?

7 A. I drive the special needs kids for Wake County
8 Public Schools.

9 Q. How many hours a week is that?

10 A. Approximately, anywhere from 48 to 50 hours a
11 week.

12 Q. How long have you had that job?

13 A. Four years.

14 Q. What did you do before that?

15 A. I drove for Evan Transportation.

16 Q. What type of driving?

17 A. It was the same.

18 Q. School bus?

19 A. At that time, I wasn't driving the bus, I was
20 driving the vans.

21 Q. And how long did you work for Evan
22 Transportation?

23 A. They went out of business. I think I was there
24 -- I want to -- I think I was there like four or five
25 months.

1 Q. What type of work did you do before that?

2 A. I was a store manager at City Trends.

3 Q. I'm sorry -- at where?

4 A. City Trends.

5 Q. And how long did you work at City Trends?

6 A. About two years.

7 Q. And how about before that?

8 A. The Shoe Department.

9 Q. For which store?

10 A. New Hope.

11 Q. So in May of 2020, were you driving school buses
12 for Wake County?

13 A. I was at -- we were still employed, but it was
14 COVID. So we were shutdown.

15 Q. Were you getting a paycheck?

16 A. Unemployment, yes.

17 Q. Okay. So you were not able to work as a bus
18 driver obviously when the schools were shut down?

19 A. No, ma'am.

20 Q. What is your educational background?

21 A. High school.

22 Q. Where did you go to high school?

23 A. Sanderson High.

24 Q. In Raleigh?

25 A. Yes, ma'am.

1 Q. Did you graduate?

2 A. No.

3 Q. What was the last year that you attended?

4 A. I have no idea.

5 Q. How old were you?

6 A. 17.

7 Q. And why did you leave high school?

8 A. My mom made me.

9 Q. Why was that?

10 A. I had no idea.

11 Q. Okay. Did you grow up in Raleigh?

12 A. Yes.

13 Q. Is your mother still living?

14 A. Yes.

15 Q. Where does she live?

16 A. Macon -- she's in Raleigh, she's off Macon Drive
17 or Street.

18 Q. What is your mother's name?

19 A. Vickie Holliday.

20 Q. And she made you leave high school when you were
21 17?

22 A. Yes.

23 Q. She didn't give you an explanation?

24 A. No.

25 Q. When you were living in the address on Burgundy

1 Street, 1628 Burgundy Street, was that subsidized housing?

2 A. Yes.

3 Q. How, how was it subsidized?

4 A. It was funded through HUD. But I didn't go
5 through their program. I went through, I had a Section 8
6 voucher.

7 Q. And how did you come to have that Section 8
8 voucher?

9 A. When I got, when Reggie and I separated, I filed
10 for Section 8.

11 Q. And did you already tell me what year that was?

12 A. No. I didn't.

13 Q. Do you know when it was?

14 A. No. I don't.

15 Q. I think you said it was --

16 A. We divorced, I mean we divorced in May.

17 Q. Right.

18 A. But we were separated for about a little over a
19 year.

20 Q. So how much did you have to pay in rent when you
21 were living at 1628 Burgundy Street?

22 A. It was 6, it was 614.

23 Q. A month?

24 A. Yes.

25 Q. Was that true during the entire time you lived

1 there?

2 A. No. Because when I first moved there, I was in
3 school and working. So at first -- I don't remember how
4 much it was. But once I finished Wake Tech, it went, and I
5 was working and wasn't on unemployment, it was based off my
6 income.

7 Q. Where were you going to school while you were
8 working?

9 A. Wake Tech.

10 Q. What were you studying at Wake Tech?

11 A. My GED.

12 Q. And did you get your GED?

13 A. Yes.

14 Q. When did you get that?

15 A. I don't remember the date.

16 Q. Sometime while you were living at Burgundy?

17 A. Yes. It was.

18 Q. And the amount of rent that you paid was based on
19 the amount of income that you had?

20 A. Yes.

21 Q. Can you describe the neighborhood when you lived
22 at 1628 Burgundy, what it was like?

23 A. I didn't go around the neighborhood, so I
24 can't -- I know the part I lived at wasn't as terrible as
25 the top.

1 give them any instructions about where they should or
2 shouldn't go in the neighborhood?

3 A. No.

4 Q. Did you ever witness any violence in the
5 neighborhood?

6 A. No.

7 Q. But did you hear about violence in the
8 neighborhood?

9 A. Only when the cops would come to the door and ask
10 questions.

11 Q. How often would that happen?

12 A. I can count like on my hands probably once.

13 Q. Do you remember what types of questions they
14 asked?

15 A. Did we see anything, did we hear anything.

16 Q. Did you know what they were investigating?

17 A. A shooting.

18 Q. Had you seen or heard anything in connection with
19 the shooting?

20 A. Just the gunshots, but I didn't witness anything.

21 Q. Do you remember when that was?

22 A. I don't remember.

23 Q. Do you remember if it was before May of 2020?

24 A. It was after.

25 Q. Before May of 2020, had you seen police in the

1 neighborhood?

2 A. Yes.

3 Q. How often would you see them in the neighborhood?

4 A. Every day.

5 Q. Every day? And were these patrol cars that you
6 saw?

7 A. Sometimes patrol or something probably had
8 happened.

9 Q. I'm sorry -- I didn't hear what you said.

10 A. I said sometimes patrol cars or sometimes
11 probably something had happened.

12 Q. Something had happened and they were called to
13 the neighborhood?

14 A. Yes.

15 Q. Do you remember any reasons for them being called
16 to the neighborhood other than the shooting that you
17 already described?

18 A. Yeah.

19 Q. What do you recall?

20 A. I mean if they be fighting, you'll see them come
21 out. But other than that --

22 Q. Did you ever see police just cruising around the
23 neighborhood?

24 A. Yes.

25 Q. And were you, were you glad that they were there?

1 or when she go out of town, stuff like that. It wasn't
2 never about the neighborhood.

3 Q. Before May of 2020, had you ever had any
4 conversations with your children about how they should
5 interact with the police if they encountered police?

6 A. Yes.

7 Q. What had you told your children?

8 A. I did my background on Leesville High School
9 because I didn't want them to go to Leesville.

10 It's a card that I gave them, a blue little card
11 that I gave my boys, which was Ziyel, Dyamond, and Robert,
12 when they started high school, their rights, what the
13 police officer is supposed to say to them, the dos or
14 don'ts, or how they're supposed to be treated.

15 Q. That was a card?

16 A. Yes.

17 Q. Do you remember where you got it?

18 A. The courthouse.

19 Q. And did you give one of those cards to each of
20 your boys?

21 A. Yes.

22 Q. So basically it was to inform them about their
23 rights?

24 A. Yes.

25 Q. And did you ever have any conversations with them

1 about how they should interact with if approached or
2 encountered by a police officer?

3 A. Yes. It was, everything was all on that card.

4 Q. Do you remember anything about what it said on
5 the card?

6 A. About being Mirandized, basically the rules and,
7 I mean not the rules, about their rights like they do and
8 they don't have, what to do if they are approached, follow
9 directions, stuff like that.

10 Q. Is there a reason that you gave the card to the
11 boys and not the girls?

12 A. Yes.

13 Q. What's that?

14 A. Because I fear for my boys more than I fear for
15 my girls.

16 Q. Did you ever have any other conversations with
17 your boys about interacting with the police?

18 A. No.

19 Q. What was it that you were worried about about
20 Leesville High School?

21 A. They had a bad reputation.

22 Q. And did they end up going there?

23 A. Yes. My mom talked me into it.

24 Q. Did they encounter any problems at Leesville?

25 A. Yes.

1 only one missing.

2 Q. And did you find out -- did you ask where he was?

3 A. Dyamond said he was next door.

4 Q. And you said that you were cussing?

5 A. Yes.

6 Q. Were you cussing at anybody in particular?

7 A. Yes.

8 Q. Who?

9 A. Dyamond and Z.G.

10 Q. So you were mad at them?

11 A. For running.

12 Q. Okay. Why is that?

13 A. Because I always tell them never run.

14 Q. You had told them already in the past they should
15 not run from the police?

16 A. Yes.

17 Q. Do you remember what happened next?

18 A. I just remember making sure Kamisha was okay.

19 Then somebody, I don't know which officer, I
20 don't recall what officer came in, and he asked about
21 counterfeit money.

22 Q. What did he ask?

23 A. He asked did I have counterfeit money.

24 Q. What did you say?

25 A. No.

1 Q. Do you recall any other questions that the
2 officers asked you?

3 A. He asked could they search my house.

4 Q. What did you say?

5 A. Yes.

6 Q. And this officer who asked about counterfeit
7 money and if they could search your house, can you describe
8 this officer?

9 A. He was African-American with cornrows.

10 Q. Do you know now who that officer was?

11 A. Yes.

12 Q. Who was it?

13 A. The Abdullah guy.

14 Q. Okay. So you believe now that was Detective
15 Abdullah who asked you that?

16 A. Yes.

17 Q. And you gave Detective Abdullah permission to
18 search your house?

19 A. Yes.

20 Q. Did they then search your house?

21 A. Yes.

22 Q. Did they find anything --

23 A. No.

24 Q. -- as a result of the search?

25 What do you recall happening next?

1 A. Then they went out the back door. Then they said
2 something about heroine.

3 And they said that a guy went through the attic
4 of Yolanda's house and I guess the attics were attached.
5 I'm not for sure about the attics being attached.

6 Q. But you understood that they, the police officers
7 were telling you that somebody had gone through the attic
8 of Yolanda's house?

9 A. (No audible response)

10 Q. And you said -- you nodded yes?

11 A. Yes. I'm sorry.

12 Q. Do you recall anything else they said about that?

13 A. No.

14 Q. What happened next?

15 A. I sat in there with the kids.

16 Q. You sat inside with the kids while they searched
17 your house?

18 A. Yes.

19 Q. And how long did that take?

20 A. Not long.

21 Q. What happened when they had completed their
22 search?

23 A. They just told me to sit tight.

24 Q. And at some point, did they finish?

25 A. Yes.

1 Q. And what did they tell you then?

2 A. Nothing.

3 Q. Did they tell you they were done or they were
4 leaving?

5 A. Nothing.

6 Q. Did they just leave?

7 A. Yes. There was still an officer in the living
8 room with us.

9 Q. And can you describe the officer who was staying
10 in the living room with you?

11 A. It was a Caucasian male.

12 Q. Was he wearing the vest and helmet?

13 A. Yes.

14 Q. Did you have any conversation with him?

15 A. I asked him what was going on. He said that
16 they'll tell me once it was done.

17 Q. Any other conversation with him?

18 A. No.

19 Q. Were you having any conversation with your kids?

20 A. Yeah.

21 Q. What type of conversation were you having?

22 A. Not with Ziyel and Z.G., they was on the steps.

23 But I was talking to Kamisha and Robert, just
24 asking them was they okay because at the time Kamisha was
25 like six or seven months pregnant.

1 Q. And did they tell you they were okay?

2 A. Yes.

3 Q. Did you make any phone calls or receive any phone
4 calls during this time?

5 A. While the officers are there?

6 Q. Yes.

7 A. Not -- like towards the end I did.

8 Q. Who did you call or did --

9 A. Ziyel was put on Instagram in handcuffs. And my
10 aunt saw it. My aunt called my mom, my sisters. And it
11 went from there.

12 Q. Who put Ziyel's photo on Instagram?

13 A. I think it was J.I.

14 Q. The next-door neighbor?

15 A. Yes.

16 Q. How did you know that?

17 A. It was told from one of the kids.

18 Q. And you started getting calls from your family?

19 A. My mom asked what was going on. By that time,
20 they was on their way there.

21 Q. Were you angry about him being put on Instagram?

22 A. Yes.

23 Q. So you think the people that you spoke with on
24 the phone would have been -- you spoke with your mom on the
25 phone?

1 Q. And you remember being woken up and asked
2 questions about it?

3 A. Yes.

4 Q. I asked you a little bit about the search that
5 the police conducted in your house.

6 Did you have an understanding of what they were
7 searching for?

8 A. The understanding was counterfeit money.

9 Q. Because they asked you if you had any counterfeit
10 money?

11 A. Uh-huh. Yes.

12 Q. Did, did you have any understanding that they
13 might be looking for a person?

14 A. After, after they came back down, they said a
15 person had entered Yolanda's unit and something about the
16 attic and said the attic was connected.

17 But I wasn't for sure because I'd never been in
18 the attic.

19 Q. But you had the impression that perhaps the
20 police thought that a person could have entered Yolanda's
21 apartment and made his way over to your apartment?

22 A. Yes.

23 Q. And the search that they conducted, were you able
24 to see what they were doing while they were searching, at
25 least in the downstairs?

1 A. No. They didn't go, they didn't search anything
2 downstairs.

3 Q. Okay. So they didn't search the downstairs?

4 A. No, ma'am.

5 Q. They went upstairs?

6 A. Yes.

7 Q. And so you weren't able to observe what they were
8 looking for?

9 A. No.

10 Q. When you went back upstairs after they had
11 finished, when you eventually went back upstairs, was
12 everything the way you had left it?

13 A. Yes.

14 Q. Did you have any robberies at the apartment on
15 Burgundy prior to May of 2020? Were you a victim of a
16 robbery?

17 A. Yes.

18 Q. How many times?

19 A. Once.

20 Q. What happened then?

21 A. I left, I left to go and, I left to go and pick,
22 I think I went to pick one of the boys up from school,
23 Robert and Ziyel from school if I'm not mistaken.

24 The 3000 dollars in my top drawer was missing.
25 Dyamond, all of Dyamond's shoes were missing. And we found

1 one shoe outside of the window.

2 Q. Did you report that to the police?

3 A. Yes.

4 Q. Did they investigate?

5 A. Honestly, I don't know.

6 Q. Or did they come --

7 A. They came.

8 Q. Yeah. Okay. Do you know how that person gained
9 entry to your apartment?

10 A. Yes.

11 Q. How?

12 A. He was Kamisha's friend.

13 Q. Okay. A friend of your daughter?

14 A. Yes.

15 Q. Do you know who it was?

16 A. Yes.

17 Q. Was he ever arrested?

18 A. Yes.

19 Q. And who, what's his name?

20 A. The little boy's name was -- not John -- George
21 Simms.

22 Q. And is it your understanding that Kamisha let him
23 in?

24 A. Yes.

25 Q. And he stole the money and the shoes while he was

1 Dyamond's clothes.

2 And we called the police then. And the police
3 came to -- the police came -- well, I called the police,
4 and the police came to my job. But I had to file a civil
5 suit or something like that.

6 Q. Okay. Did you file a lawsuit?

7 A. No.

8 Q. You knew who had done it?

9 A. Yes.

10 Q. Who was he?

11 A. My ex-boyfriend. His name is Rashid Campbell.

12 Q. Did you ever get the clothes back?

13 A. No.

14 Q. Are there any other times you can think of that
15 you've been a victim of a crime?

16 A. Another ex-boyfriend.

17 Q. What happened with him?

18 A. I broke up with him, and he tried to kill me.

19 Q. Oh. How did he do that?

20 A. He -- when I was leaving, I was leaving the
21 house, I was leaving the house, going to the beach.

22 And he pulled up. And he asked could we have a
23 conversation. I said no.

24 When I said no, like 30 minutes, 45 minutes
25 later, he came while I was putting my bags in the trunk and

1 the kids was sitting on the steps, and he started shooting.

2 The trunk of the car caught the bullet. So --

3 Q. Trying to shoot you?

4 A. Yeah. Yes.

5 Q. But fortunately he missed?

6 A. Yes.

7 Q. Did you report that to the police?

8 A. Yes.

9 Q. And did they come?

10 A. Yes.

11 Q. What happened?

12 A. He got arrested, did a restraining order.

13 Q. Did he stay away from you after that?

14 A. Yeah. He stayed away for a while until he seen
15 me on the news.

16 Q. Has he reconnected or tried to reconnect?

17 A. Tried.

18 Q. When he saw you on the news about the search
19 warrant?

20 A. Yes.

21 Q. And what was his name or is his name?

22 A. Floyd Dunn.

23 Q. Can you say it again?

24 A. Floyd Dunn.

25 Q. How did he try to reconnect with you?

1 himself?

2 A. No.

3 Q. Do you know whether the officer you later learned
4 to be Omar Abdullah was part of the search upstairs?

5 A. I didn't see him go upstairs.

6 Q. Have you ever met with or communicated in any way
7 with the Wake County District Attorney Lorrin Freeman?

8 A. No.

9 Q. What about an Assistant District Attorney named
10 David Coleman --

11 A. No.

12 Q. -- have you ever met with him or spoken to him?

13 A. No, sir.

14 Q. Same question with respect to David Saacks.

15 A. No, sir.

16 Q. Have you spoken to anyone you understand to be an
17 assistant district attorney or district attorney concerning
18 either Omar Abdullah or the May 21, 2020 encounters?

19 A. No, sir.

20 Q. I told you I was going to hop around a little
21 bit --

22 A. That's fine.

23 Q. -- so apologies. But the interview or the
24 examination of Ziyel by Dr. Etheridge, that occurred last
25 month, correct?

1 A. It was fine. Because I had a tracker on my car.

2 The car place said I couldn't, they couldn't cut
3 the car off until the Raleigh Police Department was
4 contacted. So Raleigh Police Department had to cut the
5 tracker off.

6 Q. And they ended up finding your car?

7 A. They tracked it. After they called and turned it
8 off. And they had it, they had it towed to the address.

9 Q. How quickly after you reported it or after police
10 responded to your call was your car found?

11 A. A couple seconds.

12 Q. Technology. You mentioned an ex-boyfriend that
13 stole clothes from -- was it you or from your children?

14 A. No. It was the boys' clothes.

15 Q. And you called the police related to that?

16 A. Yes.

17 Q. When did that occur?

18 A. Not for sure.

19 Q. Was it before or after May 21, 2020?

20 A. Before.

21 Q. Do you know how long before?

22 A. Probably a year and a half before.

23 Q. And did, did you call from your home?

24 A. No. I called from my job.

25 Q. And did the police actually physically respond to

1 you?

2 A. Yes. They came to the job.

3 Q. And how many police officers arrived?

4 A. One.

5 Q. And were they Raleigh police officers?

6 A. Yes.

7 Q. How was your encounter with that officer?

8 A. It was fine.

9 Q. You mentioned a situation in which an
10 ex-boyfriend actually shot at you.

11 A. Yes.

12 Q. And it struck your vehicle.

13 A. Yes.

14 Q. When did that occur?

15 A. 2015.

16 Q. So about five years before the May 21, 2020
17 encounter?

18 A. Yes.

19 Q. And did you call -- you did call police for that?

20 A. Yes.

21 Q. It was Raleigh police?

22 A. Yes.

23 Q. And did they respond to you?

24 A. Yes.

25 Q. And did that -- did they come to your home?

1 A. Yes.

2 Q. And how many responded?

3 A. A lot.

4 Q. Do you remember how many?

5 A. No. A lot.

6 Q. More than two?

7 A. Yes.

8 Q. More than three?

9 A. Yes.

10 Q. More than four?

11 A. Yes.

12 Q. I'm going to keep going -- more than five?

13 A. Yes. You would have thought somebody got
14 murdered.

15 Q. More than 10?

16 A. It probably was more than 10, yes.

17 Q. And can you describe the encounter you had with
18 the Raleigh police officers at that point?

19 A. They found him the next day. It was -- they came
20 by to make sure that I was okay. But by that time, I was
21 gone.

22 Q. Have you, yourself, had any encounters with
23 Raleigh Police Department officers since May 21, 2020?

24 A. Say that again.

25 Q. Have you had yourself any sort of face-to-face

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO.: 5:22-cv-00068-BO

YOLANDA IRVING, individually and as the)
natural parent and guardian of J.I. JUWAN)
HARRINGTON, CYDNEEA HARRINGTON, KENYA)
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DYAMOND WHITLEY, KAMISHA WHITLEY, NANETTA)
GRANT as the natural parent and guardian)
of Z.G. and EMANCIPATE NC, INC.)

Plaintiffs,)

vs.)

THE CITY OF RALEIGH, Officer OMAR I.)
ABDULLAH, Sergeant WILLIAM ROLFE, Officer)
RISHAR PIERRE MONROE, Officer JULIEN DAVID)
RATTELADE, and Officer MEGHAN CAROLINE GAY,)
Officer DAVID MEAD, Officer JESUS ORTIZ,)
Officer KYLE PERRIN, Officer MICHAEL)
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VINCENT DEBONIS, Officer DANIEL TWIDDY,)
Officer THOMAS WEBB, Officer DAVID)
McDONALD, Officer DAVID GARNER, Chief of)
Police ESTELLA PATTERSON and City Manager)
MARCHELL ADAMS-DAVID, in their official)
capacities,)

Defendants.)

D E P O S I T I O N

OF

OFFICER MEGHAN CAROLINE GAY

At Raleigh, North Carolina

Friday, October 28, 2022

REED & ASSOCIATES

MATTHEWS, NORTH CAROLINA 980.339.3575

REPORTER: DEBORAH A. HYDE

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Officer Gay 5

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(All paper exhibits are provided with the transcript. It was agreed by all parties that video exhibits will not be attached.)

* * *

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Officer Gay

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1 This is the deposition of OFFICER MEGHAN
2 CAROLINE GAY, taken in accordance with the Federal Rules
3 of Civil Procedure in connection with the above case.

4 Pursuant to Notice, this deposition is being
5 taken in the offices of Yates, McLamb & Weyher, LLP,
6 434 Fayetteville Street, Suite 2200, Raleigh, North
7 Carolina, beginning at 10:10 a.m. on Friday, October 28,
8 2022, before Deborah A. Hyde, Certified Verbatim Reporter
9 and Notary Public.

10 * * *

11 Whereupon,

12 **OFFICER MEGHAN CAROLINE GAY**

13 was called as a witness and, having first been duly
14 sworn, was examined and testified as follows:

15 EXAMINATION

16 BY MR. SCHEWEL:

17 Q. My name is Abraham Rubert-Schewel. I'm with
18 the law firm of Tin Fulton Walker & Owen. We represent
19 the plaintiffs in this lawsuit against the City of
20 Raleigh and individually named officers, such as
21 yourself.

22 You are testifying under oath and under the
23 penalty of perjury today just as if you were in a court
24 of law. Do you understand?

25 A. Yes.

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Officer Gay

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1 Q. How do you determine the reliability of a CI?

2 A. As far as when signing them up?

3 Q. Yes.

4 A. You would usually do what's called a qualifying
5 buy, where we would equip them with electronic
6 surveillance, search them, provide them with recorded
7 currency, send them to a location to buy controlled
8 substances. When they came back with the drugs, the
9 video matched up with what they said. It's what we call
10 a qualifying buy. It's how we help deem them as
11 reliable.

12 Q. Would you make an arrest off of a qualifying
13 buy?

14 A. That was not common practice.

15 Q. So a qualifying buy is what allows you to say
16 on a warrant that your CI is trustworthy and reliable?

17 A. It is one of the factors used.

18 Q. What are the other factors?

19 A. Information can also deem a CI reliable, if
20 they provide information about a dealer or an address or
21 that type of thing that I can corroborate through
22 independent law enforcement sources. That would also
23 help deem a CI reliable.

24 Q. And let me back up a little bit to the
25 qualifying buy. If the CI brings in drugs from a

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Officer Gay

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1 MR. PETTEY: Exhibit BB.

2 MR. SCHEWEL: Thank you.

3 MR. PETTEY: I'll let her look at my copy.

4 MR. SCHEWEL: Thank you.

5 BY MR. SCHEWEL:

6 Q. Okay. I'm going to direct you to page 4,
7 towards the bottom. It's the third paragraph from the
8 bottom. It states, "Abdullah never followed up checking
9 with --" sorry. Strike that.

10 "Abdullah never followed back up with checking
11 on lab reports. Gay would go out of her way to help,
12 even when it was at the end of the day. Gay did not
13 think what Abdullah was doing with Williams was
14 malicious, but there was so many issues, she could not
15 say for sure."

16 So I'll ask you again, did you help Abdullah
17 file his CCBI requests to have drugs tested?

18 MR. PETTEY: Objection.

19 THE WITNESS: So, again, possibly. I mean, it
20 was one of the jobs that we did during the processing of
21 a search warrant or a takedown, so it's very possible I
22 could have written them. Once that's written, you have
23 to get approval from the DA's office before CCBI will
24 test the drugs.

25 BY MR. SCHEWEL:

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Officer Gay

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1 Q. How do you get that approval?

2 A. Normally, it's a communication with a district
3 attorney and then an e-mail is sent to evidence for
4 approval before the drugs get sent off to CCBI.

5 Q. How long does that process take you today?

6 A. It depends on when the lab is submitted. If
7 they're submitted with the drugs and I can get approval
8 from the DA's office that day, I would say less than a
9 month, but back then it took longer.

10 Q. Okay. So you're saying there is a process by
11 which you can submit the lab request and e-mail the DA
12 immediately and say, "I have these drugs; I need them
13 tested"?

14 A. Yes.

15 Q. But in 2019, you could not do that?

16 A. I said the process took longer back then.

17 Q. So you could still do that?

18 A. Yes.

19 Q. But it took longer then to get the result back
20 from the lab?

21 A. Yes.

22 Q. Okay. And when the result -- describe for me
23 how the result comes back from the lab.

24 A. So then or now? Because it's changed.

25 Q. Then.

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Officer Gay

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1 A. So then, there's a file on Pol Share that had
2 all of the CCBI lab results for every Raleigh police case
3 that was submitted. You had to go in the folder. You
4 had to find -- it was labeled by case report number, so
5 you had to go in and find your case report numbers and
6 open it up and that was the file.

7 Q. And what was it called? Pol Share?

8 A. Pol Share.

9 Q. P-o-l-e?

10 A. P-o-l and then Share, Pol Share. It's like our
11 logistical -- so if you're on the other side of the
12 department, you can put this file and I can access it
13 from my computer.

14 Q. What else is on Pol Share?

15 A. There's a variety of things, roll calls, forms,
16 paperwork. Anything that you could not find on RPD Net,
17 which is like our website for officers, you could find on
18 Pol Share, like a common sharing network.

19 Q. Okay. And this SBI report on your interview
20 says, "Abdullah never followed back up on checking on lab
21 reports." What does that mean?

22 A. So it was something you had to seek out, so if
23 you -- sometimes it would take weeks or months for a CCBI
24 lab request to come back, so it was something that you
25 had to seek out later. That has since changed, but it

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1 was something that you had to remember, you know, "On
2 this date, I did this case, I sent the lab out, I have to
3 go back and look at this lab request whenever it comes
4 in," but you don't know when it comes in.

5 Q. And how do you know that Abdullah was not doing
6 that?

7 A. Again, this was conversations with Detective
8 Monroe and other detectives, that they did not believe he
9 was checking it.

10 Q. In conversations that they had with you?

11 A. Yes.

12 Q. Did you ever hear them confront Abdullah about
13 this?

14 A. I don't recall.

15 Q. Do you recall if you ever heard them talk to
16 Sergeant Rolfe about this?

17 A. That specific issue, I don't recall.

18 Q. Do you know how they knew that Abdullah was not
19 checking his labs?

20 A. I don't recall, but they worked with him a lot
21 longer than I had.

22 Q. Do you recall Monroe or Rattelade ever having a
23 meeting with a district attorney and a public defender
24 from the Wake County Public Defender's Office related to
25 concerns about Dennis Williams and Abdullah?

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Officer Gay

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1 Q. Did you believe he was a reliable informant at
2 this time?

3 A. I would say no.

4 Q. Okay. I'm going to read from your SBI report,
5 and if you want to follow along, I think that Rod has a
6 copy right there, too, but I'm happy to give this back to
7 you.

8 Okay. So this is page 4, and I am starting at
9 the top of the third paragraph or maybe, actually, the
10 second full paragraph. It starts, "In May of 2020." Do
11 you see where I am?

12 A. Yes.

13 Q. "In May of 2020, there was a case in North
14 Raleigh. After the arrest, the drugs were tested, and
15 they tested to not be heroin." Is this the case that you
16 are describing? Is that the one that we've just watched
17 the video of that's the search warrant execution --

18 A. Yes.

19 Q. -- at 1628 Burgundy? Sorry. Can you answer
20 that again?

21 A. Yes.

22 Q. "The drugs were tested, and they tested to not
23 be heroin. Gay asked Abdullah what to charge because she
24 was typing up the warrants for him, and he told her,
25 'Trafficking heroin.' Gay typed the warrants as Abdullah

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO.: 5:22-cv-00068-BO

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HARRINGTON, CYDNEEA HARRINGTON, KENYA)
WALTON, individually an as the natural)
parent and guardian of R.W. ZIYEL WHITLEY,)
DYAMOND WHITLEY, KAMISHA WHITLEY, NANETTA)
GRANT as the natural parent and guardian)
of Z.G. and EMANCIPATE NC, INC.)

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RISHAR PIERRE MONROE, Officer JULIEN DAVID)
RATTELADE, and Officer MEGHAN CAROLINE GAY,)
Officer DAVID MEAD, Officer JESUS ORTIZ,)
Officer KYLE PERRIN, Officer MICHAEL)
MOLLERE, Officer KYLE THOMPSON, Officer)
VINCENT DEBONIS, Officer DANIEL TWIDDY,)
Officer THOMAS WEBB, Officer DAVID)
McDONALD, Officer DAVID GARNER, Chief of)
Police ESTELLA PATTERSON and City Manager)
MARCHELL ADAMS-DAVID, in their official)
capacities,)

Defendants.)

D E P O S I T I O N

OF

OFFICER WILLIAM ROLFE

At Raleigh, North Carolina

Tuesday, January 17, 2023

REPORTER: DEBORAH A. HYDE

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C O N T E N T SPAGE

Examination by Mr. Mance:

8

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REED & ASSOCIATES

MATTHEWS, NORTH CAROLINA 980.339.3575

Officer Rolfe

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(Exhibits provided with the transcript.)

* * *

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MATTHEWS, NORTH CAROLINA 980.339.3575

Officer Rolfe

6

1 This is the deposition of OFFICER WILLIAM
2 ROLFE, taken in accordance with the Federal Rules of
3 Civil Procedure in connection with the above case.

4 Pursuant to Notice, this deposition is being
5 taken at the City Attorney's Office, One Exchange Plaza,
6 Raleigh, North Carolina, beginning at 10:14 a.m. on
7 Tuesday, January 17, 2023, before Deborah A. Hyde,
8 Certified Verbatim Reporter and Notary Public.

9 * * *

10 MR. MANCE: I think before we get into
11 questions, Norwood, this copy is for you. This is a
12 binder of materials that I'm going to be making reference
13 to today. And, Dottie, you weren't here when I spoke to
14 the others about it.

15 Everyone should have this binder. On the front
16 is a table of contents. These are all the documents that
17 I intend to refer to in the deposition today. These are
18 things like SBI interviews or various interviews where I
19 might say, for example, "Detective Rattelade said this.
20 Do you agree with that statement?"

21 And so all of those statements are in this
22 binder. I tried to organize them in the order in which
23 I'm going to refer to them. As I read the question, if I
24 use a direct quote, I'll tell you where you can find it
25 in the binder. So I'll say Exhibit B, page 4, you know,

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Officer Rolfe

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1 so you can flip through it. I thought that would just be
2 more efficient in getting us through this so that we
3 don't spend a whole lot of time, since there are a lot of
4 documents, kind of pausing and hunting for things. So
5 y'all can just kind of read along.

6 Mr. Rolfe, if you need to see -- if, in order
7 to answer a question, you need to, like, visualize it and
8 look at it, you're able to do that.

9 THE WITNESS: Okay.

10 MS. POOLE: Ian, I just want to state an
11 objection on the way Exhibit W is worded. These were
12 from Detective Gwinn, not Detective Gay, but I don't want
13 to interrupt you if you refer to it.

14 MR. MANCE: That's how it was produced to us.
15 I haven't changed the title.

16 MS. KIBLER: That's what was given to us.

17 MS. POOLE: Okay. I'm sorry, do not
18 misunderstand. We still have no access to Detective
19 Gay's phone. Those were from Gwinn, so I apologize for
20 that.

21 MR. MANCE: All right.
22 Whereupon,

23 **OFFICER WILLIAM ROLFE**
24 was called as a witness and, having first been duly
25 sworn, was examined and testified as follows:

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MATTHEWS, NORTH CAROLINA 980.339.3575

Officer Rolfe

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1 how many times do you do a qualifying buy before you can
2 label them as reliable," end quote.

3 Detective Abdullah responded, quote, "I would
4 do one, one time," end quote.

5 Is that answer correct? Are officers
6 instructed that they may qualify someone as reliable with
7 a single drug purchase?

8 A. Yes.

9 MR. BENSON: Objection to form. Where is H-14?

10 MR. BLANCHARD: Yeah. We don't have H-14.

11 MR. MANCE: So the 14 refers to the -- oh,
12 you're right. It will be in here, then. Do y'all want
13 to see it?

14 MR. BENSON: I've already stated my objection.

15 MS. POOLE: Yes. I mean -- I'm okay right now.

16 BY MR. MANCE:

17 Q. How many purchases were necessary before
18 detectives could qualify a CI as reliable?

19 A. One. One.

20 Q. It is one. In that interview, Detective
21 Abdullah described to Sergeant Davis the process of
22 writing up the paperwork associated with a search
23 warrant. This is at J-25.

24 One of the things that he says is they ask the
25 CIs, quote, "Was there any women inside the apartment?"

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Officer Rolfe

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1 MR. BENSON: Objection to form.

2 THE WITNESS: I wasn't here for this case, so I
3 wouldn't have any opinion on that.

4 BY MR. MANCE:

5 Q. Were you aware that your officers had arrested
6 Curtis Logan?

7 A. I'm not sure who is who, to be quite honest
8 with you. Which one is that?

9 Q. Would you expect to hear about a 20-plus gram
10 heroin arrest?

11 A. I did hear about it after the fact, yes.

12 Q. Do you recall how long after the fact you heard
13 about it?

14 A. Well, I was on vacation, so when I got back,
15 which was a couple days afterward.

16 Q. You were on vacation during the Curtis --

17 A. I don't know. I'm not sure which case we're
18 talking about here, like I just mentioned.

19 Q. Okay. So Curtis Logan was the incident at the
20 Sheetz in January of 2020, the Sheetz gas station, and
21 you signed a report, I believe, related to that. Do you
22 have a recollection of that incident?

23 A. I don't have specific recollection of that
24 incident, no.

25 Q. Was it common to make a 20-gram heroin purchase

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MATTHEWS, NORTH CAROLINA 980.339.3575

IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF NORTH CAROLINA
 WESTERN DIVISION
 CIVIL ACTION NO.: 5:22-cv-00068-BO

YOLANDA IRVING, individually and as the)
 natural parent and guardian of J.I. JUWAN)
 HARRINGTON, CYDNEEA HARRINGTON, KENYA)
 WALTON, individually and as the natural)
 parent and guardian of R.W. ZIYEL WHITLEY,)
 DYAMOND WHITLEY, KAMISHA WHITLEY, NANETTA)
 GRANT as the natural parent and guardian)
 of Z.G., and EMANCIPATE NC, INC.)

Plaintiffs,)

vs.)

THE CITY OF RALEIGH, Officer OMAR I.)
 ABDULLAH, Sergeant WILLIAM ROLFE, Officer)
 RISHAR PIERRE MONROE, Officer JULIEN DAVID)
 RATTELADE, and Officer MEGHAN CAROLINE GAY,)
 Officer DAVID MEAD, Officer JESUS ORTIZ,)
 Officer KYLE PERRIN, Officer MICHAEL)
 MOLLERE, Officer KYLE THOMPSON, Officer)
 VINCENT DEBONIS, Officer DANIEL TWIDDY,)
 Officer THOMAS WEBB, Officer DAVID)
 McDONALD, Officer DAVID GARNER, Chief of)
 Police ESTELLA PATTERSON and City Manager)
 MARCHELL ADAMS-DAVID, in their official)
 capacities,)

Defendants.)

D E P O S I T I O N
 OF
 DETECTIVE JASON C. GWINN

At Raleigh, North Carolina

Monday, December 19, 2022

REPORTER: LINDSEY CLINE, Notary Public

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* * * * *

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* * *

1 This is the deposition of DETECTIVE JASON C.
2 GWINN, taken in accordance with the Federal Rules of
3 Civil Procedure in connection with the above case.

4 Pursuant to Notice, this deposition is being
5 taken in the offices of Yates, McLamb & Weyher, LLP,
6 Two Hannover Square, Suite 2200, 434 Fayetteville Street,
7 Raleigh, North Carolina, beginning at 10:14 a.m. on
8 Monday, December 19, 2022, before Lindsey Cline,
9 Certified Verbatim Reporter and Notary Public.

10 * * *

11 Whereupon,

12 DETECTIVE JASON C. GWINN
13 was called as a witness and, having first been duly
14 sworn, was examined and testified as follows:

15 EXAMINATION

16 BY MR. DAVIS:

17 Q. Hey, good morning, Officer Gwinn. My name is
18 Nichad Davis. I am with the law firm of Tin, Fulton,
19 Walker & Owen. We represent the plaintiffs in this
20 matter against the City of Raleigh and other individually
21 named officers, and today you're going to be testifying
22 under oath. So you're going to be under the penalty of
23 perjury. So do you understand that today's testimony is,
24 in fact, you know, under oath?

25 A. I do.

1 sent in CCBI labs that purported to be a drug indicating
2 that it's not?

3 A. I've never seen his CCBI labs, so I honestly
4 don't know.

5 Q. So you guys are not privy to each other's CCBI
6 lab reports between detectives, although you guys are on
7 the same team?

8 A. We could go and find them, but we literally
9 have to -- we would have to go and hunt down his labs,
10 and that's just not something we do based on our own
11 caseloads. We have to keep up with our own.

12 Q. But it's -- it's common practice for detectives
13 to collaborate on either a controlled buy, search warrant
14 execution, and then evidence submission?

15 MR. PETTEY: Objection.

16 THE WITNESS: Yes. At the time of an incident.
17 But generally if you're not working an active incident,
18 you're working as an independent detective, and not as a
19 team.

20 BY MR. DAVIS:

21 Q. And sometimes the detective that conducts the
22 controlled buy is not the same detective that collects
23 the evidence, in your case, right?

24 A. Correct.

25 Q. In your case, you just told us about some

1 a CCBI lab report for him.

2 Q. No. How many times have you assisted him in
3 that process?

4 A. So the -- the CCBI lab reports are simple. So
5 it would either be I fill it out and submit it, or I
6 don't do anything at all. And I don't recall ever
7 filling one out for him.

8 Q. Are -- in any case by any detective on your
9 unit, were there -- you guys would conduct a field test
10 before submitting a CCBI lab report, correct?

11 A. Occasionally, depending on the case.

12 Q. But there's some cases where you just submit
13 the alleged drug and CCBI comes back with the findings of
14 what it is?

15 A. Yes.

16 Q. So for those weeks, you don't know how long --
17 you don't know what it is?

18 A. Correct.

19 Q. And how long does it usually take to get a lab
20 report back?

21 A. It varies.

22 Q. Approximately, generally speaking.

23 A. I've seen it take a week and I've seen it take
24 four months.

25 Q. Depending on quantity, investigation, a lot of

1 heroin, specific to the March incident that we talked
2 about with the money in the foosball table, whereas
3 things lined up that day in March after the May incident,
4 I could take the set of facts from May and apply them to
5 the March incident and make it line up that Aspirin had
6 gone in, bought marijuana, came back and reported it as
7 heroin.

8 Q. So in some -- in some way or another, Aspirin
9 was not super reliable?

10 A. No. That's the crystallization that I saw
11 after the May incident.

12 Q. And in your -- your estimation, does that make
13 him reliable?

14 A. No.

15 Q. So could you trust that Aspirin went to the
16 correct address?

17 A. Well, after the incident when that became the
18 fact, he was never used again, so it didn't matter from
19 that point on.

20 Q. It became the fact that he did not go to the
21 correct address?

22 A. No. It became the fact that I did not deem him
23 reliable after the May 21st incident.

24 Q. Okay. So back to my question, do you -- my
25 question is, we know he was reliable -- unreliable, based

1 sent to the lead detective. Tell me what you mean by
2 that. What is sent, if anything, to the lead detective
3 concerning CCBI lab results?

4 A. Well, that might be a change that's happened.
5 Some results -- well, CCBI has changed and now they have
6 a portal called LIMS. At the time, sometimes they would
7 get emailed to you, but very infrequently. And if they
8 weren't emailed to you, they would get put into like a
9 network folder and you would have to go into that and
10 find the labs in a file folder labeled with your case
11 number.

12 Q. And in that scenario you just described, is
13 that consistent with how the lab results were provided
14 between March 2020 and April 21, 2020, when you were on
15 the Vice Squad?

16 A. No. So I was on longer than that. At some
17 point in time, up until the incident in May, they were
18 put into that shared network folder. At some point, they
19 began like sporadically emailing to us, and then they
20 opened the LIMS system.

21 Q. And that's what I'm getting at. The sporadic
22 emailing of lab results, that came after May 21, 2020; is
23 that true?

24 A. Yes.

25 Q. Okay. Before May 21, 2020, they went to a

1 database, and then the officer would have to go through
2 and find their name, their cases and search that way?
3 They weren't alerted to the results otherwise, true?

4 MR. DAVIS: Objection.

5 THE WITNESS: Correct.

6 MR. BENTON: That's all I have. Thank you,
7 sir.

8 MS. LIGUORI: I don't have any questions for
9 the witness. Thank you.

10 MS. KIBLER: I have no questions.

11 MR. PETTEY: Norwood?

12 MR. HANLEY: Yeah, this is Andrew for Norwood.
13 No questions.

14 MR. PETTEY: I don't have any questions.

15 COURT REPORTER: Do you want him to read?

16 MR. PETTEY: Yeah. Send it to me.

17 COURT REPORTER: Okay.

18 Whereupon, at 1:23 p.m. on December 19, 2022,
19 the deposition was concluded. Signature was reserved.)
20

21 * * * * *

22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO.: 5:22-cv-00068-BO

YOLANDA IRVING, individually and as the)
natural parent and guardian of J.I. JUWAN)
HARRINGTON, CYDNEEA HARRINGTON, KENYA)
WALTON, individually and as the natural)
parent and guardian of R.W., ZIYEL WHITLEY,)
DYAMOND WHITLEY, KAMISHA WHITLEY, NANETTA)
GRANT as the natural parent and guardian)
of Z.G., and EMANCIPATE NC, INC.)

Plaintiffs,)

vs.)

THE CITY OF RALEIGH, Officer OMAR I.)
ABDULLAH, Sergeant WILLIAM ROLFE, Officer)
RISHAR PIERRE MONROE, Officer JULIEN DAVID)
RATTELADE, and Officer MEGHAN CAROLINE GAY,)
Officer DAVID MEAD, Officer JESUS ORTIZ,)
Officer KYLE PERRIN, Officer MICHAEL)
MOLLERE, Officer KYLE THOMPSON, Officer)
VINCENT DEBONIS, Officer DANIEL TWIDDY,)
Officer THOMAS WEBB, Officer DAVID)
McDONALD, Officer DAVID GARNER, Chief of)
Police ESTELLA PATTERSON and City Manager)
MARCHELL ADAMS-DAVID, in their official)
capacities,)

Defendants.)

D E P O S I T I O N

OF

SERGEANT JULIEN DAVID RATTELADE

At Raleigh, North Carolina

Tuesday, February 28, 2023

REPORTER: DEBORAH A. HYDE

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Sergeant Rattelade

3

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Julien David Rattelade, and Meghan Caroline Gay:

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* * * * *

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Sergeant Rattelade

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PLAINTIFFS' EXHIBITS

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(Exhibits provided with the transcript.)

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980.339.3575

Sergeant Rattelade

5

1 This is the deposition of SERGEANT JULIEN DAVID
2 RATTELADE, taken in accordance with the Federal Rules of
3 Civil Procedure in connection with the above case.

4 Pursuant to Notice, this deposition is being
5 taken in the offices of Yates, McLamb & Weyher,
6 434 Fayetteville Street, Suite 2200, Raleigh, North
7 Carolina, beginning at 10:24 a.m. on Tuesday,
8 February 28, 2023, before Deborah A. Hyde, Certified
9 Verbatim Reporter and Notary Public.

10 * * *

11 Whereupon,

12 **SERGEANT JULIEN DAVID RATTELADE**

13 was called as a witness and, having first been duly
14 sworn, was examined and testified as follows:

15 EXAMINATION

16 BY MR. SCHEWEL:

17 Q. My name is Abraham Rubert-Schewel. I'm with the
18 law firm of Tin, Fulton, Walker and Owen. We represent
19 the Plaintiffs in this lawsuit against the City of
20 Raleigh and individually named officers such as yourself.

21 You are testifying under oath and under the
22 penalty of perjury today just as if you were in a court
23 of law. Do you understand that?

24 A. Yes, sir.

25 Q. Have you ever been deposed before?

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Sergeant Rattelade

14

1 A. Correct.

2 Q. Okay. So on May 21st, 2020, when you returned
3 back to Green Dairy, you field tested the alleged heroin?

4 A. Correct.

5 Q. And what device did you use to field test the
6 heroin?

7 A. I used some sort of cutting instrument to open
8 the package, introduced a sample to the chemical reaction
9 test. I think the manufacturer is Sirchie. Conducted
10 the field test by breaking the ampules, which introduces
11 a mixture of acids to the sample, and you're looking for
12 a rapid color change through chemical reaction. That did
13 not occur, so to me it was a negative field test.

14 Q. Why did you feel comfortable testing it in this
15 instance?

16 A. Because it was my opinion that it was not
17 heroin.

18 Q. So you weren't worried about fentanyl exposure?

19 A. At that particular moment, no.

20 Q. At Green Dairy, does the vice team have any sort
21 of masks or gloves you could use to prevent fentanyl
22 exposure?

23 A. We typically always have gloves. We don't have
24 any sort of special masks or anything like that. There
25 is a vented hood testing device at our evidence unit,

Sergeant Rattelade

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1 A. It would have been -- where my desk is here
2 (indicating), he would have been sitting two chairs over,
3 distance-wise, and I was just coaching him, not --

4 Q. Okay.

5 A. I'm not over his shoulder, like assisting him.

6 Q. But he could look at your computer screen and
7 see what you were doing to see what to do?

8 A. I mean, I'm not -- I'm just literally verbally
9 giving him cues, like, "This is how you do it."

10 Q. Okay. And that was prior to May 21, 2020?

11 A. Correct.

12 Q. Did he tell you that he looked up the results?

13 A. I don't believe so. I think I literally -- so
14 we didn't communicate with each other very much. Like,
15 it was kind of a big deal for him to ask me for help
16 because we just didn't get along.

17 Q. Did you learn that the results were negative?

18 A. After all this started snowballing, yes.

19 Q. So your testimony is that you did not learn that
20 the heroin had tested negative from CCBI until after
21 May 21, 2020?

22 A. Correct.

23 MR. SCHEWEL: Norwood, you can hit PC if you
24 want.

25 MR. BLANCHARD: PC?

Sergeant Rattelade

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1 MR. PETTEY: Objection.

2 THE WITNESS: I am not -- I personally know
3 nothing about this phone call.

4 BY MR. SCHEWEL:

5 Q. I mean, if you had concerns like you did about 7
6 grams brown sugar mixture that was going to be produced,
7 couldn't you have called Lieutenant Bunch and told him
8 that?

9 A. There would be no reason for me to call the
10 lieutenant because, in my mind, a crime is still
11 occurring. It's still illegal for someone to sell fake
12 drugs during a drug transaction, and we didn't, at the
13 time, have the lab results to know for sure that drugs
14 weren't being sold.

15 Q. At this time, did you believe that Aspirin was a
16 reliable CI?

17 A. As far as reliable, going there, buying drugs
18 and bringing them back, I had no reason not to believe
19 that he was doing that. I thought he was being played.
20 I thought he was being sold fake drugs and he was
21 bringing those fake drugs back to the detective.

22 Q. If your CI is repeatedly being played, is that a
23 reliable CI?

24 A. I'd say it's on a case-by-case basis.
25 Definitely one of those change the facts, change the

Sergeant Rattelade

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1 outcome kind of situations.

2 I don't think Abdullah knew that he was being
3 played because he wasn't checking his lab results, so
4 therefore he didn't know that they were being played. We
5 were speculating, but we sure didn't know because it's
6 not my job to check his lab results and put together a
7 discovery packet for the DA's office. That's his job.

8 Q. Or to check his body camera?

9 A. Correct. It's not my job.

10 Q. So even with the concerns you had that you
11 expressed to Rolfe and that are in your text message
12 chain, you still thought that Aspirin was a reliable CI?

13 A. Reliable as in he was going in, making a
14 purchase and bringing it back. I thought he was reliable
15 for that. I thought he was -- but as far as the quality
16 of the CI, I didn't -- I mean, I didn't like him.

17 Q. Would you have used him as your CI?

18 A. Knowing now what I know, absolutely not. I
19 would have -- you know, if he was to provide me with some
20 information, I would definitely verify it. The old trust
21 but verify, I think, applies here.

22 Q. Would you have used him as your CI on the
23 morning of May 21st, 2020 to make a controlled buy?

24 A. I don't think it would be fair for me to speak
25 to if I would have used him that day because what I knew

STATE OF NORTH CAROLINA Wake County			File No: 20CR200104				
STATE VERSUS			In The General Court Of Justice District Court Division				
Name of Defendant CURTIS RAY LOGAN			TRANSCRIPT OF PLEA				
DOB 10/05/1986	Age	Highest Level of Education Completed					
N.C.G.S. 15A-1022							
NOTE: Use this section <i>ONLY</i> when the Court is rejecting the plea arrangement. <input type="checkbox"/> The plea arrangement set forth within this transcript is hereby rejected and the clerk shall place this form in the case file. (Applies to arrangements disclosed on or after December 1, 2009.)							
Date		Name of Presiding Judge (Print)			Signature of Presiding Judge		
The defendant, having offered a plea of <u>guilty</u> and being first duly sworn, makes the following answers to the question set out below:							
							ANSWERS
1. Are you able to hear and understand me?							yes
2. Do you understand that you have the right to remain silent and that any statement you make may be used against you?							yes
3. At what grade level can you read and write?							12th
4. (a) Are you now under the influence of alcohol, drugs, narcotics, medicines, pills, or any other substances?							no
4. (b) When was the last time you used or consumed any such substance?							3 months
4. (c) How long have you been using or consuming this medication or substance?							10 years
4. (d). Do you believe your mind is clear, and do you understand what you are doing at this hearing?							yes
5. Have the charges been explained to you by your lawyer, and do you understand the nature of the charges, and do you understand every element of each charge?							yes
6. (a) Have you and your lawyer discussed the possible defenses, if any, to the charges?							yes
6. (b) Are you satisfied with your lawyer's legal services?							yes
7. (a) Do you understand that you have the right to plead not guilty and be tried by a jury?							yes
7. (b) Do you understand that at such trial you have the right to confront and to cross examine witnesses against you?							yes
7. (c) Do you understand that by your plea(s) you give up these and your other valuable constitutional rights relating to a trial by jury, including rights related to sentencing and limitations on your right to appeal?							yes
7. (d) Do you understand that your plea of guilty may impact how long biological evidence related to your case (for example, blood, hair, skin tissue) will be preserved?							yes
8. Do you understand that, if you are not a citizen of the United States of America, your plea(s) of guilty or no contest may result in your deportation from this country, your exclusion from admission to this country, or the denial of your naturalization under federal law?							n/a
9. Do you understand that upon conviction of a felony you may forfeit any State licensing privileges you have in the event that you refuse probation, or that your probation is revoked?							yes
10.c (Victim Rights Act cases only) Do you understand that upon your conviction of _____ you may be ordered to pay restitution to any persons directly and proximately injured as a result of your commission of that offense, and that a civil judgment in favor of each such person may be docketed against you and will be a lien against real estate owned by you for the next ten years?							yes
11. Do you understand that you are pleading <u>guilty</u> to the charges shown below, which carry the total punishments listed?							
Plea	File No.	Count No.	Offense	G.S.	F/M	Class	Maximum Punishment
G	20CR200104	I	PWISD COUNTERFEIT	90-95(A)(2)	F	I	24 MONTHS
			CONTROLLED SUBSTANCE				
TOTAL MAXIMUM PUNISHMENT				24 MONTHS			
MANDATORY MINIMUM FINES & SENTENCES (if any)							

12. Do you now personally plead guilty?		yes
13. (a) (if applicable) Are you in fact guilty?		yes
13. (b) (if applicable) (Alford Plea)		
(1) Do you now consider it to be in your best interest to plead guilty?		n/s
(2) Do you understand that upon your "Alford guilty Plea" you will be treated as being guilty whether or not you admit that you are in fact guilty?		n/s
14. Have you agreed to plead as part of a plea arrangement? Before you answer, I advise you that the Courts have approved plea negotiating, and if there is such, you may advise me truthfully without fear of incurring my disapproval?		yes
15. (if applicable) The prosecutor and your lawyer have informed the Court that these are all the terms and conditions of your plea: THE DEFENDANT IS PLACED ON SUPERVISED PROBATION FOR 18 MONTHS WITH A SUSPENDED SENTENCE OF 4 MONTHS MINIMUM TO 14 MONTHS MAXIMUM. ALL REGULAR CONDITIONS OF PROBATION, INCLUDING DRUG CONDITIONS, APPLY TO THE DEFENDANT'S PROBATION. THE DEFENDANT MUST ALSO COMPLETE THE SAFE CHILD PROGRAM. ONCE THE SAFE CHILD PROGRAM IS COMPLETED, IF THE DEFENDANT IS IN COMPLIANCE WITH ALL OTHER TERMS AND CONDITIONS OF PROBATION, THEN HIS PROBATION MAY BE TRANSFERRED TO UNSUPERVISED. ANY/ALL OTHER TERMS OF JUDGMENT REMAIN IN THE COURT'S DISCRETION.		
16. (a) Is this correct as being your full plea arrangement?		yes
17. (b) Do you now personally accept this arrangement?		yes
18. Other than the plea arrangement between you and the prosecutor, has anyone made any promises or threatened you in any way to cause you to enter this plea against your wishes?		no
19. Do you enter this plea of your own free will, fully understanding what you are doing?		yes
20. Do you agree that there are facts to support your plea and do you consent to the Court hearing a summary of the evidence?		yes
21. Do you have any questions about what has just been said to you or about anything else connected to your case?		no
I have read or have heard all of these questions and understand them. The answers shown are the ones I gave in open court and they are true and accurate. Neither my lawyer nor anyone else has told me to give false answers in order to have the Court accept my plea in this case. The conditions of the plea as stated above, if any, are accurate.		
SWORN AND SUBSCRIBED TO BEFORE ME		Date 4-15-20
Date 4/15/20	Signature [Signature]	Signature of Defendant [Signature]
Deputy CSC Assistant CSC Clerk of Superior Court		Name of Defendant (Type or Print) Curtis W. Son
CERTIFICATION BY LAWYER FOR DEFENDANT		
As lawyer for the defendant named above, I hereby certify that the conditions stated above, if any, upon which the defendant's plea was entered are correct and they are agreed to by the defendant and myself. I further certify that I have fully explained to the defendant the nature and elements of the charge(s) to which the defendant is pleading.		
Date 4-15-20	Name of Lawyer for Defendant (Type or Print) Alton Williams	Signature of Lawyer for Defendant [Signature]
CERTIFICATION BY PROSECUTOR		
As prosecutor for this Prosecutorial District, I hereby certify that the conditions stated above, if any, are the terms agreed to by the defendant and his/her lawyer and myself for the entry of the plea by the defendant to the charge(s) in this case.		
Date 4-15-2020	Name of Prosecutor (Type or Print) ADAM EVERETT	Signature of Prosecutor [Signature]
PLEA ADJUDICATION		
Upon consideration of the record proper, evidence presented, answers of defendant, and statements of the lawyer for the defendant and the prosecutor, the undersigned finds that:		
<ol style="list-style-type: none"> 1. There is a factual basis for the entry of plea. 2. The defendant is satisfied with his/her lawyer's legal services. 3. The defendant is competent to stand trial and that the plea is the informed choice of the defendant and is made freely, voluntarily and understandingly. 		
The defendant's plea is hereby accepted by the Court and is ordered recorded.		
Date 4-15-20	Name of Presiding Judge (Type or Print) [Signature]	Signature of Presiding Judge [Signature]

Updated 9/18/18

March 29, 2023

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

YOLANDA IRVING, et al.,)
)
)
Plaintiffs,)
)
)
vs.) 5:22-cv-00068-BO
)
)
THE CITY OF RALEIGH, et)
)
al.,)
)
)
Defendants.)

DEPOSITION UPON ORAL EXAMINATION OF
DAVID T. SWEENEY
ALL PARTIES APPEARED REMOTELY VIA ZOOM

10:06 A.M.

MARCH 29, 2023

LOCATION OF WITNESS: SEATTLE, WASHINGTON

REPORTED BY: JUDY STEENBERGEN-WEBB, RPR, WA CCR #2495

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A P P E A R A N C E S (Continuing)

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ALSO PRESENT: NONE

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I N D E X

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1 SEATTLE, WASHINGTON; MARCH 29, 2023

2 10:06 A.M.

3 --000--

4
5 (Pursuant to Washington Supreme Court
6 Order Number 25700-A-1311, a remote
7 oath was administered by the Certified
8 Court Reporter.)

9
10 DAVID T. SWEENEY,
11 sworn as a witness by the Certified Court Reporter,
12 testified as follows:

13
14 EXAMINATION

15 BY MR. BENTON:

16 Q. Mr. Sweeney, my name is Jason Benton. I
17 represent Omar Abdullah in this lawsuit. You and I are
18 meeting for the first time.

19 Again, good afternoon from here and good
20 morning to you there.

21 MR. MANCE: Jason, before we get going,
22 are you going to start us off today?

23 MR. BENTON: I am.

24 MR. MANCE: Before we get started, if I
25 could just clarify the record, given your pending

1 referring to is the less reliable that involves the
2 initial entry of SEU officers into that unit?

3 A. That's correct.

4 Q. And then there's a second consent provided by
5 Ms. Walton on camera that you could hear; is that true?

6 A. That is true.

7 Q. And she provided consent to a search of 1628
8 A, didn't she?

9 A. I will say, yes, she did provide consent at
10 that point.

11 Q. Do you agree that the officers that made
12 initial entry into each of these units, that is 1628
13 Apartment A, 1628 Apartment B, were the SEU officers?

14 A. Certainly the initial team that moves up from
15 the van and moves into the apartments are the SEU
16 officers. Later detectives come in, and that's very
17 common. That happens in Seattle, as well.

18 Q. When we say SEU, as far as you know, that's
19 the Raleigh analog to the Seattle SWAT team?

20 A. Yes, yes, very similar. I noted very similar
21 procedures as to how they would serve a search warrant.

22 Q. Mr. Sweeney, the documents that you gathered
23 responsive to the subpoena, how long did that take you
24 to gather those documents?

25 A. I think I was done within a half an hour.

1 report that they come up with will match up what the
2 officer detective field tested on the street that day,
3 which it would not hold up in a court of law, but that
4 it can tell the detective or the supervisor or the
5 prosecutor's office what they expect to find as far as
6 charges.

7 And if you come up with a negative test --
8 well, I'll let you ask that question. But when you
9 have that positive test, that tells everyone that most
10 likely we're going to have charges based on this
11 arrest.

12 Q. Okay. Now, a positive test, you know, is
13 typically not admissible in evidence in court, correct?

14 A. That is correct.

15 Q. Okay. Now, so a positive test, even if you
16 get one of those, you're still sending it off to the
17 lab for testing, right?

18 A. That's correct.

19 Q. Okay. Now, based on my quick review of
20 Seattle PD's website, it appears that the Seattle PD
21 sends their drug tests off to the state's crime lab,
22 isn't that right?

23 A. Correct, Washington State Patrol crime lab.

24 Q. WSP is what they call it, the acronym, right?

25 A. Yes, they do.

1 Q. What's the turnaround time for WSP to get
2 those things back to you?

3 A. It's quite lengthy. I think that they are
4 short of investigators, of lab technicians, and we have
5 had some issues in Washington state with the timely
6 testing of evidence when it comes to whether it be
7 narcotics or even sexual assault, where you're maybe
8 looking for DNA evidence. That's a higher level of
9 testing, but still we wish that there were more people
10 in the field or more people that had been hired by the
11 state. And I don't know where the shortage occurs, if
12 it's a lack of people or a lack of hiring. I'm not
13 sure.

14 But anyway, lab turnaround can be quite slow,
15 and we in law enforcement often wish that it was
16 faster.

17 Q. So it's not at all unusual for there to be a
18 lengthy turnaround between the time when a sample is
19 submitted, evidence is submitted to the crime lab and
20 when you get a result back, right?

21 A. That's correct.

22 Q. And an arrest takes place, or a search can
23 take place, in that interim, right?

24 A. Yes. If the officer has a probable cause, or
25 in the search that you're talking about, there's other

1 And you're going to send it off to the DA's office for
2 them to consider whether they want to charge the
3 individual or not.

4 And they may or may not want to wait for the
5 lab results, or they might go for the terms that you
6 and I were talking about, even selling or attempting to
7 buy counterfeit drugs.

8 Q. Mr. Benton asked you about your knowledge of
9 heroin in northeast -- I'm sorry, in the southeast and
10 Raleigh and in the Seattle area.

11 Do you know whether heroin is typically
12 adulterated when it's sold on the street?

13 A. It comes in many forms. You can smoke it, you
14 can inject it, and so you can cut it with substances.
15 You can add to it. There's a lot you can do with it.

16 Q. Okay. And I'm asking a narrow question about
17 that. One of the things you indicated was that a field
18 test could come back negative because apparently --
19 even though there was this, you know, the controlled
20 substance was in it, the test might come back negative
21 for a number of reasons, including adulteration of the
22 sample, right?

23 A. Right. That's right.

24 Q. It could be mixed with something else?

25 A. Absolutely, and often it is. Almost always.

1 Q. That was my following up question.

2 Is heroin typically mixed with other
3 substances, or are people getting pure heroin?

4 A. No. Pure heroin is extremely rare and you --
5 I can never -- I never remember coming across it on the
6 street, nor can I remember anyone else making an arrest
7 of 100 percent pure heroin. I'm sure it exists out
8 there, and it -- I'm sure if -- there are narcotics
9 detectives that have come across pure heroin. Maybe
10 you get it right at the source. You get the delivery
11 person that's brought it across the border or something
12 like that.

13 Abut as far as the street officer goes, the
14 street detective, the street SWAT officer, the patrol
15 officer, it's going to be a very rare thing that you
16 ever come across that. It's almost always going to be
17 adulterated in order to increase the quantity that you
18 have. You can turn a small amount into a larger amount
19 and still get the effects that the drug user, the
20 narcotics user is looking for, the high.

21 Q. And that's what I was trying to ask was
22 whether it was generally, or as you said almost always
23 heroin that's sold on the street is adulterated?

24 A. That's correct.

25 Q. And that's one of the reasons that you could

1 get a negative field test for heroin?

2 A. That's correct.

3 Q. Right?

4 A. Yes.

5 Q. Now, another reason -- we've heard testimony
6 earlier in this case that another reason is -- and I
7 think it matches your testimony earlier, sometimes you
8 were testing for the wrong narcotic, that you may buy
9 fentanyl mixed with some adulterant. I guess you
10 could, if you had pure fentanyl, it would kill everyone
11 that took it, right?

12 A. Right.

13 Q. So just like heroin, it's going to be
14 adulterated, right?

15 A. Yes.

16 Q. In any event, it might come back negative for
17 heroin, but that doesn't mean it's not a controlled
18 substance, right?

19 A. That's correct. That's why rely on the lab.

20 Q. But there's a long delay before you get lab
21 results back, right?

22 A. That's true.

23 Q. I noted in your report, and on Exhibit 2, that
24 you indicated that you had done EEOC type work, Equal
25 Employment Opportunity type work?

1 Someone got transferred after they tried to supervise
2 him.

3 So that was the idea presented to me. That
4 was what I gathered from these statements, was that he
5 was unsupervised or -- let's -- maybe not unsupervised
6 completely, but there was not enough supervision, which
7 allowed for some policy violations or, like we talked
8 about, meeting alone with the CI, things like that.

9 Q. Did you read at any point in Gay or
10 Rattelade's statements about a negative field test in
11 January for one of the suspects that Abdullah and
12 Aspirin worked on?

13 A. Yeah. I can't swear it was January, but there
14 was definitely some cases that I reviewed that ended up
15 with what the detectives felt should not have been
16 charged.

17 Q. Okay. Now, if that suspect was ultimately
18 charged with counterfeit narcotics, attempting to sell
19 counterfeit narcotics, that would be an entirely
20 appropriate charge, wouldn't it?

21 A. Yes. As we discussed, I believe that North
22 Carolina and Washington state both have delivery of
23 fake or counterfeit narcotics, and that that is still a
24 viable felony charge.

25 Q. So if the evidence showed that that particular

1 pled to that?

2 A. No, it wouldn't surprise me. I mean 20 grams
3 is quite -- that's quite large. That's -- and it's
4 also surprising that it's below the street price. But
5 it does not surprise me that this would be a case where
6 they would charge for the selling of counterfeit drugs.
7 No, it doesn't surprise me.

8 Q. Do people who buy narcotics, in your
9 experience, ever promise to work off some portion of
10 the sale through selling things for other dealers or
11 things like that?

12 A. Yes, that does happen where they can take a
13 cut, if they sell the rest, and give the money back to
14 the higher level dealer.

15 Q. Now, in each one of these instances that you
16 have described, heroin is almost universally
17 adulterated, that there are instances where your field
18 test, if you do one, will come back negative despite
19 the fact that there's some kind of controlled substance
20 in it, and the -- officers meet alone with CIs.

21 Every one of those instances is a situation
22 where differing conclusions can be reached about
23 whether or not something is amiss or not, isn't it?

24 I mean there are multiple explanations, for
25 example, about why you would get a negative field test,

1 right?

2 A. That's correct. We've discussed that, and I
3 agree with that.

4 Q. There are multiple explanations for why a
5 person selling narcotics would give a buyer a larger
6 than normal quantity, right? I mean maybe there was an
7 agreement to work something off. Maybe it was cut with
8 more adulterant.

9 There are differing reasons, though, aren't
10 there?

11 A. Yes.

12 Q. Now, every one of these confidential
13 informants, or the vast majority of them, it's fair to
14 say that they are in this for some reason.

15 Many of them have been arrested, right?

16 A. That's correct.

17 Q. So they're criminals to begin with, right?

18 A. Yes.

19 Q. And in your experience it's fair to say that
20 they don't want to be too obvious about the placement
21 of a microphone or a camera or anything like that,
22 right?

23 A. No. Yeah. It can get them hurt or killed.

24 Q. They wouldn't go in wearing a headset like
25 I've gone on right now to make a buy, would they?

1 A. That would not look correct.

2 Q. Wouldn't ask somebody to repeat it for the
3 camera or anything like that, right?

4 A. That's correct.

5 Q. Okay. So things that are -- can be described
6 as furtive actions or -- there's an alternative
7 explanation for it, right?

8 A. I'm sure that there is.

9 There can usually be explanations for why
10 things happen. Sure.

11 Q. Are you aware that my client was actually not
12 present for the May 20th or 21st incidents, either the
13 arrest of the suspect, the search warrant issuance, or
14 the execution of the search warrant?

15 A. No, I don't have any knowledge about your
16 client that I can think of right off the top of my
17 head. I don't remember seeing the name in the reports
18 or any of the detectives talking about them.

19 Q. Okay. The uncontroverted testimony here is
20 that Rolfe was on vacation that week and didn't know
21 anything about the arrest of the suspect Vanirvine,
22 didn't know anything about the issuance of the search
23 warrant for the residents, and didn't know that a
24 search would take place; were you aware of that?

25 A. I didn't get the last third of your question.